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UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/768,568	01/24/2001	Steven Mastrianni	YOR920000800US1	3575

29683	7590	05/23/2006

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EXAMINER
BRUCKART, BENJAMIN R

ART UNIT	PAPER NUMBER
2155	

DATE MAILED: 05/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	09/768,568	MASTRIANNI, STEVEN
	Examiner	Art Unit	
	Benjamin R. Bruckart	2155	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>02 May 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

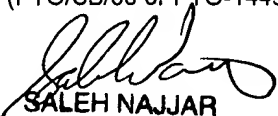   NOTE: *See Continuation Sheet*. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: *None*.

   Claim(s) objected to: *None*.

   Claim(s) rejected: *1-21*.

   Claim(s) withdrawn from consideration: *None*.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
   <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.

13. ☐ Other: _____.

/SALEH NAJJAR/
SUPERVISORY PATENT EXAMINER

U.S. Patent and Trademark Office

PTOL-303 (Rev. 7-05)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20060517

Continuation of 3. NOTE: There are amendments made to claim 21 made after prosecution was closed that change the scope of the invention.

Continuation of 11. does NOT place the application in condition for allowance because: The information disclosure statement submitted 5/2/06 has not been considered because it was considered previously as cited in the FORM 892 mailed 8/31/05.

With regards to claim 21, applicant has made changes to the scope of the invention that will not be entered. Further applicant has made a change to the preamble, which may not be given patentable weight, and applicant has included subject matter that was directed to 112, first and second rejections as well as an objection to the specification in the preceding office action.

Applicant argues the Slaughter reference does not teach, "examining the network using individual ones of a plurality of network configuration discovery protocols that are executed sequentially as well as building a list containing network configuration information discovered..."
The examiner respectfully disagrees.
The applicant has provided summation and analysis of the reference with both cited and not previously cited portions of the reference. However, the examiner believes the Slaughter reference teaches the claimed the limitation because the limitation is so broad.
Col. 34, lines 50-61 show a client executing, through a space, an invoked network discovery protocol reinforced in col. 7, lines 42-47. The client uses service discovery protocols such SLP, Jini, UpnP, etc to find services.

The second argued portion of the limitation regards to building a list containing network configuration information discovered. The list size could be of size 'one' as interpreted. The network configuration information discovered is just the list of services of a particular type that are discovered. Slaughter: col. 73: col. 38-60 teaches a list of all services is gathered and provided. An agent builds a list of the services it finds using the discovery protocols mentioned above. The 103 rejections are maintained because the main reference teaches the argued feature.

The examiner reminds applicant that the specification does not sufficiently enable one of ordinary skill in the art to use the salutation protocol to discover other protocols as stated in the prior non-final action.

The 102 rejection anticipated by Elderton is maintained. The applicant argues that no protocols are sequentially executed. The breadth of the claim limitation allows for one protocol to be executed. Elderton teaches launching discovery agents. The agents are all related to discovery of services and attributes and storing a list of the network configuration data.

The 102 rejection anticipated by Graham is maintained. Graham teaches a service broker mechanism that uses servlets mapped to different protocols to handle client requests. Applicant argues that Graham listens and passively waits for client requests so it cannot sequentially run network discovery protocols or build a list of configuration data. Fig. 5 and col. 8, lines 6-29 show the mechanism determining the service provider's unique protocol and make a servlet available. Graham shows new servlets for new protocols. And entering into the registry the discovered protocols.

It appears that the applicant relies heavily on the adjective 'sequential.' The examiner stresses that the word only means in an order and is not defined in the claims or specification on what that order is or how it is executed.